

made if a contracting party loses control of a facility whose increased production is the basis of a program payment or otherwise fails to retain the ability to assure that all program obligations and requirements will be met.

§ 1424.11 Maintenance and inspection of records.

For the purpose of verifying compliance with the requirements of this part, each eligible producer shall make available at one place at all reasonable times for examination by representatives of USDA, all books, papers, records, contracts, scale tickets, settlement sheets, invoices, written price quotations, or other documents related to the program that is within the control of such entity for not less than three years from the payment date.

§ 1424.12 Appeals.

(a) A participant subject to an adverse determination under this part may appeal by submitting a written request to: Deputy Administrator, Commodity Operations, Farm Service Agency, United States Department of Agriculture, STOP 0550, 1400 Independence Avenue, SW., Washington, D.C. 20250-0550. The appeal must be delivered in writing to the Deputy Administrator or postmarked within 30 days after the date the Agency decision is mailed or otherwise provided to the participant. The Deputy Administrator may consider a late appeal if determined warranted by the circumstances.

(b) The regulations at 7 CFR part 11 apply to decisions made under this part.

(c) Producers who believe they have been adversely affected by a determination by the Agency must seek review with the Deputy Administrator before any other review may be requested within the Agency.

§ 1424.13 Misrepresentation and scheme or device.

(a) A producer shall be ineligible to receive payments under this program if CCC determines the producer:

- (1) Adopted any scheme or device that tends to defeat the purpose of the program in this part;
- (2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this part to a producer engaged in a misrepresentation, scheme, or device, or to any other person as a result of the bioenergy producer's actions, shall be refunded with interest together with such other sums as may become due, plus damages as may be determined by CCC.

(c) Any producer or person engaged in an act prohibited by this section and any producer or person receiving payment under this part shall be jointly and severally liable for any refund due under this part and for related charges.

(d) The remedies provided in this part shall be in addition to other civil, criminal, or administrative remedies that may apply.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions and rates prescribed in part 1403 of this chapter.

§ 1424.14 Offsets, assignments, interest and waivers.

(a) Any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the bioenergy, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found in part 1403 of this chapter shall be applicable to agreement payments.

(b) Any producer entitled to any payment may assign any payments in accordance with regulations governing the assignment of payments found at part 1404 of this chapter.

(c) Interest charged by CCC under this part shall be at the rate of interest that the United States Treasury charges CCC for funds, as of the date CCC made such funds available. Such interest shall accrue from the date such payments were made available to the date of repayment or the date interest increases as determined in accordance with applicable regulations.

(d) CCC may waive the accrual of interest and/or damages if CCC determines that the cause of the erroneous determination was not due to any action of the bioenergy producer.